




DATE SUBMITTED 11/30/23
 SUBMITTED BY Kristen Smith
 DATE ACTION REQUIRED 12/6/23

COUNCIL ACTION (X)
 PUBLIC HEARING REQUIRED ()
 RESOLUTION ()
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS ()

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: 1. Adopt Resolution 2023-58 Resolution of the Imperial City Council providing detail regarding at-will personnel positions as adopted by the City Council on March 1, 2023 to clarify the terms of at-will employment for executive management employees.	
DEPARTMENT INVOLVED: Human Resources	
BACKGROUND/SUMMARY: This resolution is being proposed to clarify the terms of at-will employment for executive management at-will positions. Resolution 2023-09 established that Executive Management Department Directors entering the position on or after March 1, 2023 would be at-will employees. Resolution 2023-58 is intended to clarify the terms of at-will employment for these employees, including conditions of At-Will Employment, salary, benefits, resignation, discipline and termination, and severance pay.	
FISCAL IMPACT: NOT TO EXCEED There is no fiscal impact.	FINANCE INITIALS <u></u>
STAFF RECOMMENDATION: Staff recommends adoption of Resolution 2023-58 Resolution of the Imperial City Council providing detail regarding at-will personnel positions as adopted by the City Council on March 1, 2023	DEPT. INITIALS <u></u>
MANAGER'S RECOMMENDATION: Approve staff recommendation.	CITY MANAGER'S INITIALS <u></u>
MOTION: SECONDED: APPROVED () REJECTED () AYES: DISAPPROVED () DEFERRED () NAYES: ABSENT: REFERRED TO:	

RESOLUTION NO. 2023-58

**RESOLUTION OF THE IMPERIAL CITY COUNCIL
PROVIDING DETAIL REGARDING AT-WILL
PERSONNEL POSITIONS AS ADOPTED BY THE CITY
COUNCIL ON MARCH 1, 2023**

WHEREAS, the City Council wishes to promote efficiency and effectiveness for the services provided by the City of Imperial; and

WHEREAS, it is the intent of the City Council to attract and maintain skilled career professionals to meet the organizational needs of the City; and

WHEREAS, the City Council adopted Resolution No. 2023-09 making all executive level positions (classified as Executive Management Department Directors and above) hired on or after March 1, 2023, at-will employees; and

WHEREAS, the details set forth below shall be applied to all at-will, executive level positions (classified as Executive Management Department Directors and above) hired on or after March 1, 2023

WHEREAS, this Resolution does not apply to any Executive Management employees hired before March 1, 2023, the 1984 Resolution is the applicable severance and disciplinary resolution to those employees hired before March 1, 2023, until future adopted policies supersede the Resolution.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IMPERIAL DOES RESOLVE, DETERMINE, ORDER AND PROCLAIM AS FOLLOWS:

SECTION 1. The above-referenced recitals are true and correct and are incorporated herein.

SECTION 2. The City Council established on March 1, 2023 through Resolution #2023-09, that all City of Imperial executive level positions (classified as Executive Management Department Directors and above) hired on or after March 1, 2023, shall be at-will employees, serving at the pleasure of the City Manager.

SECTION 3. The City Council confirms that no employees currently occupying executive level positions (classified as Executive Management Department Directors and above) as of March 1, 2023, shall be changed to at-will employment status. However, incoming, transferred, or promoted employees at such level shall be at-will and subject to the provisions of this Resolution. Any employees currently holding a position of Executive Management Department Directors and above remain subject to the provisions of Resolution 2023-27, the City's Civil Service Rules established now and in the future by the City of Imperial.

SECTION 4. The City Council hereby adopts the following requirements and policies related to at-will employees.

SECTION 5. Conditions of At-Will Employment

- (a) As a condition of being appointed to an executive level position (classified as Executive Management Department Directors and above), employees shall, to the extent permissible by law, extinguish any right, claim, or entitlement they would have had to any other position with City, including any right or entitlement under the City's Civil Service Rules established now or in the future by the City of Imperial unless set forth through resolution or contract.
- (b) Employee's employment rights are expressly and specifically limited to those specified herein or any Resolution or Policy adopted by the City Council of the City of Imperial on or after March 1, 2023.
- (c) Employee has no property-right entitlement to any position within the City.
- (d) At-will positions are exempt from the provisions and protections of the City's Civil Service System, that such position may be eliminated at any time, that such employment is expressly at-will, serving at the pleasure of the City Manager, and that the employee's employment can be terminated by the City or the employee, at any time, with or without cause and with or without notice.

SECTION 6. Contract or Resolution The City Manager or City Council shall have the discretion to enter into a contract with at-will employees that specifies specific terms and conditions outside of this resolution. Unless specifically set forth in a contract that directly waives a term of this resolution or City policies, this resolution shall apply. No such contract shall change the nature of the employee's at-will employment status.

SECTION 7. Salary

- (a) The City will pay Employee for services provided, payable at the same time as other employees of the City are paid and subject to customary withholding.
- (b) Pay increases for at-will employees shall be discretionary and at the sole discretion of the City Manager. Such pay increases shall be scheduled consistent with Unrepresented Employees and subject to City Manager approval.
- (c) Maximum pay shall not exceed the maximum range of the City's salary schedule for this position.

SECTION 8. Benefits Unless otherwise set forth in a separate contract or written agreement signed by the City Manager and Employee, the City shall provide Employee the same benefits as provided to other Unrepresented employees, as a group, and as they may be amended, increased, or decreased. The benefits to be provided shall be listed in Resolution 2023-27 and incorporated herein by reference or as specifically updated for Unrepresented Employees by the City Council in the future. It is the City's general intent to confer to Employee such benefits as are granted to Unrepresented employees. As used herein, benefits include but are not limited to, vacation, sick leave, holidays, administrative leave, retirement, social security, health insurance, dental insurance, short-term disability insurance, and life insurance. These benefits may change over time as applied to all members of the Executive Management group.

SECTION 9. Voluntary Resignation

- (a) Employee is an at-will employee whose employment may be terminated by the City or Employee, at any time, with or without cause and with or without notice.
- (b) Employee may voluntarily resign at any time. In order to resign in good standing, and be eligible for rehire, Employee agrees to give City at least fourteen (14) calendar days, advanced written notice of the effective date of his or her resignation.

SECTION 10. Discipline and Termination of Employment.

- (a) While Employee is employed in an at-will position, the City also reserves the right to take disciplinary actions against Employee. Discipline can include, but is not limited to, verbal and written reprimands, suspensions without pay, reduction in pay, involuntary demotion, and termination. The imposition of any disciplinary action does not alter Employee's at-will status.
- (b) Because Employee is at-will, there is generally no right to challenge disciplinary action. However, in certain circumstances, Employee may be entitled to a name clearing hearing before the City Manager. If Employee satisfies the criteria set forth below in section 9(c), the City shall provide Employee with at least five calendar days' notice of its intent to discipline Employee. During those five days, Employee may request a name-clearing hearing. If Employee does not request a name-clearing hearing, then he/she will have been deemed to have waived his/her right to said hearing. If Employee requests a hearing in accordance with section 9(c), then the City Manager will make all necessary arrangements for the hearing prior to imposing the disciplinary action. If Employee does not meet the criteria set forth in section 9(c), then he/she is not entitled to any hearing, appeal, or waiting time before the disciplinary action is imposed on Employee.
- (c) In certain circumstances, Employee may be entitled to a name-clearing hearing before the disciplinary action is imposed by the City. In such circumstances, Employee will be entitled to a name-clearing hearing in accordance with this Section. In accordance with state and federal law, when the following three elements are present, Employee is entitled to a name-clearing hearing: (1) a stigmatizing charge, (2) Employee's denial of the stigmatizing charge, and (3) public disclosure of the stigmatizing charge. If Employee has satisfied all three criteria set forth in section 9(c), then Employee is entitled to a hearing in order to clear his/her name. If Employee desires a name-clearing hearing, he/she must file a written request with the City Manager within five days of receiving notice from the City of its intent to impose disciplinary action. Failure to timely request a hearing shall constitute a waiver of the right to a hearing. The hearing shall be before the City Manager. Employee is not entitled to a full evidentiary hearing but is only entitled to the opportunity to clear his/her name of the stigmatizing charge(s). All name-clearing hearings shall be held in private unless Employee requests a public hearing in writing.
- (d) In the event that Employee is subject to the provisions of the Peace Officers or Firefighters Procedural Bill of Rights Acts, the City will afford Employee all rights and protections of that law.
- (e) In the event that City Manager implements any disciplinary action exceeding a letter of reprimand or implements termination for cause, Employee shall have the right to an informal meeting with the City Manager. Employee shall request such informal meeting within seven (7) calendar days of written notice of such discipline or termination for cause. City Manager shall be the final, deciding party after such meeting and no further administrative appeals shall exist.

SECTION 11. Severance Pay.

- (a) In the event that Employee is terminated by the City Manager, City agrees to pay Employee a cash payment equal to two (2) months' base salary.

- (b) To be eligible for such severance pay, Employee shall sign an acknowledgment and release of claims against the City, to the extent permissible by law.
- (c) If Employee receives severance pay after termination from the City, such amount shall be fully reimbursed to City if Employee is convicted of a crime involving an abuse by Employee of his office or position.

SECTION 12. This Resolution shall supersede any conflicting statements, procedures or policies set forth in any previously adopted City of Imperial Resolution or City of Imperial Policy. For purposes of clarity, in addition to any other Resolution or Policy, the 1984 Resolution related to employees shall not be applicable to City of Imperial executive level positions (classified as Executive Management Department Directors and above) hired on or after March 1, 2023.

PASSED, APPROVED AND ADOPTED, at the regular meeting of the City Council this 6th day of December, 2023.

KATHERINE BURNWORTH,
Mayor

ATTEST:

KRISTINA M. SHIELDS,
City Clerk

CERTIFICATION

I, Kristina M. Shields, City Clerk of the City of Imperial, California, hereby certify that the foregoing resolution was duly adopted at a meeting of the City Council of said City at its meeting held on the 6th day of December, 2023 by the following vote, to wit:

AYES: BURNWORTH, MENDOZA, OBESO-MARTINEZ, TUCKER, AMPARANO

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Imperial, California, this 6th day of November, 2023.

KRISTINA M. SHIELDS,
City Clerk

RESOLUTION NO. 2023-09

**RESOLUTION OF THE IMPERIAL CITY COUNCIL
ESTABLISHING AT-WILL PERSONNEL POSITIONS**

WHEREAS, the City Council wishes to promote efficiency and effectiveness for the services provided by the City of Imperial; and

WHEREAS, it is the intent of the City Council to attract and maintain skilled career professionals to meet the organizational needs of the City; and

WHEREAS, the City Council desires to make all incoming executive level positions (classified as Executive Management, Range 102 and above) at-will employees; and

WHEREAS, effective immediately, all incoming employees entering the positions of Administrative Services Director, Assistant City Manager, Community Development Director, Community Services Director, Information Technology Director, Parks Director, and Public Services Director at or above MSPC Range 102 above shall be at-will employees.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The above-referenced recitals are true and correct and are incorporated herein.
2. The City Council hereby establishes that all City of Imperial positions at or above MSPC Range 102 shall be at-will employees, serving at the pleasure of the City Manager.
3. The City Council determines that no employees currently holding a position of MSPC Range 102 shall be changed to at-will employment status, but incoming or promoted employees at such level shall be at-will.
4. This Resolution shall supersede any conflicting statements, procedures or policies set forth in any previously adopted City of Imperial Resolution or City of Imperial Policy.

APPROVED, PASSED AND ADOPTED, at the special meeting of the City Council this 1st day of March, 2023.

AYES: *Obeso-Martinez, Mendoza, Tucker and Burnworth*

NOES:

ABSTAIN:

ABSENT: *Amparano*

m/c: 4-0

Katherine Burnworth

Katherine Burnworth, Mayor

ATTEST:

Kristi Slub

City Clerk

RESOLUTION 2023-27

RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF IMPERIAL ESTABLISHING EMPLOYEE BENEFITS FOR MSPC UNREPRESENTED EMPLOYEES OF THE CITY OF IMPERIAL

WHEREAS, the City Council recognizes that unrepresented employees (“Unrepresented Employees”), which include those in management, supervisory, professional and confidential positions for the City of Imperial (“City”), must provide effective management and leadership to assure efficient City operations and quality public service; and

WHEREAS, Unrepresented Employees are comprised of Fair Labor Standards Act (FLSA) Exempt Classifications defined as an employee that is not entitled to overtime compensation under FLSA and FLSA Non-Exempt defined as employees who are not exempt and are entitled to overtime compensation under FLSA.

WHEREAS, the following Unrepresented Employees are classified as:

- **FLSA Exempt Classifications**
 - **Administrative Services Director,**
 - **Assistant City Manager,**
 - **Community Development Director,**
 - **Financial Analyst,**
 - **Finance Director,**
 - **Finance Manager,**
 - **Human Resources Analyst,**
 - **Human Resources Manager,**
 - **Human Resources Specialist,**
 - **Information Technology Director,**
 - **Library Administrator,**
 - **Management Analyst,**
 - **Parks and Recreation Director,**
 - **Project Manager,**
 - **Police Captain,**
 - **Public Records Analyst,**
 - **Public Services Director,**
 - **Public Services Foreman,**
 - **Public Services Manager,**
 - **Wastewater Treatment Plant Chief Operator, and**
 - **Water Treatment Plant Operator**
- **FLSA Non-Exempt Classifications**
 - **Administrative Services Technician I,**
 - **Administrative Services Technician II,**

- Building Inspector III,
- Executive Assistant,
- Geographic Information Systems Coordinator,
- Librarian,
- Literacy Coordinator,
- Planner III,
- Recreation Coordinator, and
- Special Events Coordinator

New positions classified created after the adoption of this resolution and classified as unrepresented, shall be subject to the terms of this resolution.

WHEREAS, the City Council desires to establish the benefits to be afforded by the City to all Unrepresented Employees referenced above; and

WHEREAS, Exhibit A, attached herein, reflects the salary schedule for FY 2023-2024, FY 2024-2025, and FY 2025-2026; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IMPERIAL DOES RESOLVE, DETERMINE, AND ORDERS AS FOLLOWS:

1. All Unrepresented Employees referenced above shall receive the following benefits:
 - a. A 10% cost of living adjustment (COLA) to the fiscal year (FY) 2023-2024 salary schedule, a 2.5% COLA to the FY 2024-2025 salary schedule and a 2.5% COLA to the FY 2025-2026 salary schedule;
 - b. Merit increases will be provided for FY 2023-2024, FY 2024-2025, and FY 2025-2026 to employees who have received a satisfactory performance evaluation. Merits will be awarded on the employee's anniversary date. (Failure to receive a satisfactory performance evaluation will result in no merit increase being provided. Successful completion of a department performance evaluation means a rating of "meets expectations" or higher);
 - c. Longevity Steps: The City will add two additional longevity steps to the salary schedule, allowing for longevity step increases at Step 8, Step 9 and Step 10.
 1. Upon adoption of this resolution all employees with 20 years or greater of continuous services with the City will immediately advance to step 10, so long as they have completed at least one year at step 8.
 2. All employees with equal to or greater than 15, but less than 20 years of continuous service with the City will immediately advance to Step 9, so long as they have completed a minimum of one year at step 8. Future step increases to take place per the provisions outlined under Section 8 Longevity Increases.
 3. Longevity salary increases outlined in c (1) and c (2) will be effective the first day of the pay period following execution of this agreement.
 - d. Health insurance will be provided as follows:

1. City will pay one-hundred percent (100%) of the Employee Only and fifty percent (50%) of the dependent cost of medical, dental, and vision cost for existing plans selected by the employee during open enrollment for plan year(s) 2024-2026.
 2. City will pay monthly cost of up to seven hundred dollars (\$700.00) of those employees who select SIMSA health plan during open enrollment for plan year(s) 2024-2026.
 3. Employees who waive coverage shall be provided the amount of four hundred dollars (\$400.00) per month and be allowed to allocate said funds into a pre-tax health benefit and/or supplemental insurance coverage, and/or 457 deferred compensation account, and/or his or her paycheck as an after-tax benefit;
 4. City will pay one hundred percent (100%) of the cost of REACH Life Helicopter Services for employees and members of employee's household; and
 5. City will pay one hundred percent (100%) of the employee and dependent life insurance.
 - e. SDI benefits will be provided at one hundred percent (100%) of employee's cost.
 - f. Reimbursement of up to \$50 per month shall be provided for gym or fitness class membership.
2. All employees filling a FLSA Exempt Classification referenced above, and are ineligible to earn overtime compensation shall receive the following benefit:
 - a. Annual administrative leave in the amount of eighty (80) hours, to be provided the first pay period of each fiscal year.
 - b. Unused annual administrative leave shall expire the last pay period of each fiscal year.
3. In addition to those benefits detailed in Section 1 above, the Unrepresented Employee(s) identified within this resolution, with the exception of the Police Captain shall receive the following benefits as set forth in the Memorandum of Understanding with Teamster's Local Union # 542 adopted by the City of Imperial City Council on July 5, 2023, as though fully set forth herein:
 - a. Article 5 – Compensation (Sections 1, 8, and 9)
 - A. Section 1 – Salary Schedule
 - B. Section 8 – Longevity Increases
 - C. Section 9 – Education Pay
 - b. Article 8 – Holidays
 - c. Article 9 – Sick Leave
 - d. Article 10 – Vacation
 - e. Article 11 – Other Leaves
 - f. Article 12 – Health Benefits
 - g. Article 13 – Retirement Plan

4. In addition to those benefits detailed in Section 1 above, the Unrepresented Employees in the positions of Public Services Director, Public Services Manager, Public Services Foreman, Water Chief Operator, Wastewater Chief Operator, Community Development Director, Project Manager, Building Inspector III, Parks and Recreation Director, Information Technology Director, and Information Technology Technician shall also receive the following benefits:
 - a. Employee Safety Voucher for boots, up to four-hundred dollars (\$400.00). Products must have ASTM, F2413-11, MI/75, C/75 and/or EH marking inside footwear.

5. In addition to those benefits detailed in Section 1 above, the Unrepresented Employees in the positions of Administrative Services Technician I, Administrative Services Technician II, Building Inspector III, Executive Assistant, Financial Analyst, Human Resources Analyst, Human Resources Specialist, Literacy Coordinator, Management Analyst, Public Records Analyst, Recreation Coordinator, and Special Events Coordinator shall also receive the following benefits:
 - a. Employees will be eligible to receive bilingual stipend of up to \$50.00 (\$25.00 for Oral Proficiency and \$25.00 for Written Proficiency) per pay period upon becoming certified in a foreign language hereby specified as Spanish, through a city administered exam testing oral and/or written proficiency provided that the position occupied has been “designated” to receive such pay by the City Manager’s Office. In order to be eligible to receive bilingual pay, the use of the identified foreign language must be a necessary part of their daily work activities and for purposes of communicating with the general public.

6. In addition to those benefits detailed in Section 1 above, the Unrepresented Employee in the position of Police Captain shall also receive the following benefits as set forth in the Memorandum of Understanding with the Imperial Police Officers’ Association adopted by the City Council on July 5, 2023, as though fully set forth herein:
 - a. Article X- Safety and Other Equipment Exclusive of Required Uniforms
 - b. Article XI- Uniforms and Uniform allowance
 - c. Article XIII- Employee Leaves
 - A - Sick Leave
 - B - Vacation Leave
 - C - Funeral Leave
 - D - Bereavement Leave
 - E - Jury Duty Leave
 - F – Military Leave
 - G - Other Leave Types
 - H - Donation of Time
 - d. Article XIV- Holidays
 - e. Article XV- Replacement/Repair of Employees Personal Property
 - f. Article XVI – Health Benefits
 - g. Article XVII- Compensation

- i. Section B: Post Certification
- ii. Section K: Education Pay
- h. Article XVIII- Retirement
- i. Article XX- Personnel Files
- j. Article XXI- Performance Evaluation
- k. Article XXII- Punitive Action
- l. Article XXIII- Administrative Appeal Procedure
- m. Article XXIV- Discipline
- n. Article XXV- Grievance Procedure

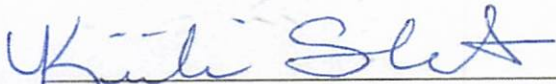
7. The City Manager or designee are authorized to take those steps required to implement the provisions of this Resolution.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Imperial on the 5th day of July, 2023.



KATHERINE BURNWORTH,
Mayor

ATTEST:



KRISTINA M. SHIELDS,
City Clerk

CERTIFICATION

I, Kristina M. Shields, City Clerk of the City of Imperial, California, hereby certify that the foregoing resolution was duly adopted at a meeting of the City Council of said City at its meeting held on the 5th of July, 2023, by the following vote, to wit:

AYES: Mendoza, Obeso-Martinez, Tucker, Amparano & Mayor Burnworth

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Imperial, California, this 5th day of July, 2023.



KRISTINA M. SHIELDS,
City Clerk